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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 RICHARD WILLIAMS, ) Case No.: 1:21-cv-00090-DAD-SAB (PC)  
12 Plaintiff, )  
13 v. ) ORDER GRANTING PLAINTIFF’S MOTION TO  
14 CLARK J. KELSO, et al., ) FILE A SECOND AMENDED COMPLAINT  
15 Defendants. ) (ECF No. 11)  
16 )

17 Plaintiff Richard Williams is proceeding *pro se* in this civil rights action pursuant to 42 U.S.C.  
18 § 1983.

19 Currently before the Court is Plaintiff’s motion to file a belated amended complaint, filed May  
20 28, 2021.

21 This action was removed from the Kings County Superior Court by Defendant Kelso on  
22 January 21, 2021.

23 On March 8, 2021, the Court screened Plaintiff’s complaint, found that Plaintiff failed to state  
24 any cognizable claims for relief, and granted thirty days to file an amended complaint. (ECF No. 8.)

25 Plaintiff filed a first amended complaint on March 22, 2021. (ECF No. 9.)

26 On May 17, 2021, the undersigned issued Findings and Recommendations recommending that  
27 the action be dismissed, without prejudice, for failure to exhaust the administrative remedies and  
28 failure to state a cognizable claim for relief. (ECF No. 10.)

1 Plaintiff now seeks to amend and file a second amended complaint to add new defendants and  
2 to demonstrate that he exhausted the administrative remedies.

3 Under Rule 15(a) of the Federal Rules of Civil Procedure, a party may amend the party's  
4 pleading once as a matter of course twenty-one days after serving, or if a response was filed, within  
5 twenty-one days after service of the response. Fed. R. Civ. P. 15(a)(1). Otherwise, a party may amend  
6 only by leave of the court or by written consent of the adverse party, and leave shall be freely given  
7 when justice so requires. Fed. R. Civ. P. 15(a)(2).

8 Rule 15(a) is very liberal and leave to amend 'shall be freely given when justice so requires.'"   
9 AmerisourceBergen Corp. v. Dialysis West, Inc., 465 F.3d 946, 951 (9th Cir. 2006) (quoting Fed. R.  
10 Civ. P. 15(a)). However, courts "need not grant leave to amend where the amendment: (1) prejudices  
11 the opposing party; (2) is sought in bad faith; (3) produces an undue delay in the litigation; or (4) is  
12 futile." AmerisourceBergen Corp., 465 F.3d at 951. Relevant to the futility factor, a plaintiff may not  
13 bring unrelated claims against unrelated parties in a single action. Fed. R. Civ. P. 18(a), 20(a)(2); Owens  
14 v. Hinsley, 635 F.3d 950, 952 (7th Cir. 2011); George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007). The  
15 burden to demonstrate prejudice falls upon the party opposing the amendment. DCD Programs, Ltd. v.  
16 Leighton, 833 F.2d 183, 187 (9th Cir. 1987). Absent prejudice, or a strong showing of any of the  
17 remaining three factors, a presumption exists under Rule 15(a) in favor of granting leave to amend.  
18 Eminence Capital, LLC v. Aspeon, Inc., 316 F.3d 1048, 1052 (9th Cir. 2003). Further, undue delay  
19 alone is insufficient to justify denial of a motion to amend. Bowles v. Reade, 198 F.3d 752, 758 (9th  
20 Cir. 1999).

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1           Given the liberality of amendment and Plaintiff's pro se status, the Court will grant Plaintiff  
2 one additional opportunity to file a second amended complaint to attempt to cure the deficiencies  
3 outlined in the May 17, 2021 Findings and Recommendations. Accordingly, it is HEREBY  
4 ORDERED that Plaintiff has thirty (30) days from the date of service of this order to file a second  
5 amended complaint. If Plaintiff fails to file a second amended complaint, the Court will proceed with  
6 the Findings and Recommendations issued on May 17, 2021.

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8 IT IS SO ORDERED.

9 Dated: June 1, 2021

  
UNITED STATES MAGISTRATE JUDGE